THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.22663 AND 22688 OF 2007

DATED: 13-11-2007

W.P.No.22663 of 2007

BETWEEN

Alluri Venkata Satyanarayana Raju,
S/o. Balarama Raju, Occ: Agriculture,
R/o. Vaivaka Village, Mudinepalli Mandal,
Krishna District.

...PETITIONER

AND

The District Collector,
Krishna District at
Machilipatnam and two others.

...RESPONDENTS

W.P.No.22688 of 2007

BETWEEN

Smt. Adusumilli Seshuprabaha,
W/o. Sri Janardhan Rao,
R/o. Vaivaka Village,
Mudinepalli Mandal,
Krishna District.

...PETITIONER

AND

The District Collector
Krishna District at
Machilipatnam and two others.

...RESPONDENTS

COMMON ORDER:

The case of the petitioners in these writ petitions is that they are the

original assignees of various extents of lands admeasuring about 2 acres in various survey numbers situated at Vaivaka Village, Mudinepalli Mandal, Krishna District. While so, a Form – II notice under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Rules, 2007 has been issued by the Tahsildar, Mudinepalli,
to the petitioners stating that they are found to be the transferees of the assigned lands in contravention of the provisions of sub-section (2) of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act').

2. The petitioners submit that the said show cause notices do not indicate in whose favour the said lands have been assigned or transferred. The show cause notices do not have any proceedings number and date. The petitioners, however, submit that they have submitted explanations to the said show cause notices. The final orders passed under Section 4(1)(a) of the Act go to show that they are all printed orders with blanks left unfilled and without mentioning the extent of the lands and the original assignees of the said lands. They further submit that without considering their explanations,
the printed proforma has been filled and resumption orders have been passed holding that the original assignees have transferred the said lands and the petitioners do not have right, title over the said assigned lands.

3. I am of the opinion that the said orders passed by the Tahsildar, are without reference to any show cause notice and the explanations submitted by the petitioners; the orders have been passed without application of mind and without giving any opportunity to the petitioners. The petitioners submit that they are the original assignees and they have never violated any of the conditions of the D-form patta or any of the provisions of sub-section (2) of Section 3 of the Act.

4. Learned Government Pleader appearing for the respondents submits that in 1970 the said lands were assigned to poor persons and thereafter the assignment was again granted in favour of the petitioners in 1993.

5. There is no dispute with regard to the assignment of the said lands in favour of the petitioners by various assignment orders in 1993. The resumption orders do not indicate about the alleged assignment said to have been made in 1970 and the subsequent assigned made in 1993. The show cause notices as well as the final orders are not specific with regard to a particular violation.

6. Accordingly, the impugned orders are set aside keeping it open to the concerned Mandal Revenue Officer/Tahsildar to issue a specific notice with regard to particular violation calling upon the petitioners to submit their explanations and after submission of explanations,
the same may be considered with regard to specific averments and appropriate orders may be passed in accordance with law; till then the petitioners shall not be dispossessed.

The writ petitions are accordingly allowed. There shall be no order as to costs.

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V. ESWARAIAH, J

November 13, 2007
DSK